

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

	*	
Rochelle Pouget	*	
	*	
v.	*	Civil Action No. 22-cv-00382-SM
	*	
Kysa Crusco, et al.	*	
	*	

DEFENDANTS' OBJECTION TO PLAINTIFFS MOTION TO COMPEL

NOW COME Defendants Town of New Boston, James Brace and Timothy Loveless ("New Boston Defendants") and, to the extent it is directed at them, object to Plaintiff's Motion to Compel [Doc. No. 10], which is both premature and unfounded. In support hereof, Defendants state as follows:

1. Plaintiff seeks by way of her Motion to Compel, among other things, footage from Body Worn Cameras recorded by New Boston Police Officers and transcriptions of same. The Motion must be denied.

2. First, Plaintiff has not yet served (and cannot yet serve) any discovery in this case and thus there is no procedural or factual basis on which to file a motion to compel.

3. Second, Defendants have filed a Motion to Dismiss [Doc. No. 28] which remains pending. Until that Motion is decided any discovery, much less a motion to compel, is premature.

4. Plaintiff's Motion does underscore, however, the improper nature of the instant suit. From the outset it has been apparent that this federal action has been initiated to circumvent various actions pending in state courts. In her Motion she concedes as much, admitting that she has requested certain items and has "been met with great resistance in the lower courts."

5. In fact, Plaintiff sought the Body Worn Camera video identified in the instant motion in a criminal case pending against her in state court. *See Exhibit 1*. That Court allowed the Motion in part. *Id.*

6. This Court, of course, has no jurisdiction over the criminal matter.

7. To the extent Plaintiff seeks to challenge a public records request, this Court again is not the proper forum. RSA 91-A sets forward a specific process by which a party who believes she has been aggrieved by a response to a request for information pursuant to RSA 91-A may challenge the decision in a state superior court. In any event, Body Worn Camera footage is expressly exempt from public records requests. *See* RSA 91-A :5.

8. Based on all of the above, Plaintiff's Motion to Compel must be denied.

Respectfully submitted,

**TOWN OF NEW BOSTON,
JAMES BRACE and
TIMOTHY LOVELESS**

By their Attorneys,

CULLEN COLLIMORE SHIRLEY PLLC

Date: May 26, 2023

By: /s/ Brian J.S. Cullen

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CERTIFICATE OF SERVICE

I certify that a copy of this filing was served via the Court's ECF filing system upon counsel of record.

Date: May 26, 2023

By: /s/ Brian J.S. Cullen

Brian J.S. Cullen